

March 31, 2014

The Honorable Anne Brasseur
President
Parliamentary Assembly of the Council of Europe
Avenue de l'Europe
F-67075 Strasbourg Cedex
France

Dear Madame President,

We write as an informal group of organizations and individuals who are scholars, religious leaders, human rights advocates and practitioners to express our deep concern about the recent report by Rapporteur Rudy Salles (France), "The protection of minors against excesses of sects," with draft resolution and draft recommendation adopted by the Committee of Legal Affairs and Human Rights on March 3, 2014.¹ We understand this report with draft resolution and draft recommendation will now be presented to the Parliamentary Assembly of the Council of Europe (PACE) on or about April 7, 2014, for a vote on adoption.

We respectfully urge that this report with draft resolution and draft recommendation not be adopted by PACE. Instead, it should be sent back to the Committee of Legal Affairs and Human Rights for further investigation and analysis of threats it poses to the human rights and fundamental freedoms that are protected by the European Convention on Human Rights.

First, the European Convention on Human Rights is the first Council of Europe's convention and the cornerstone of all its activities. So we feel it is important to highlight the following key points:

- Article 1 states that parties shall secure to everyone within their jurisdiction the rights and freedoms defined in Section I of this Convention.
- Section I, Article 9 states that everyone has the right to freedom of thought, conscience and religion, and this right includes freedom, either alone or in community with others and in public or private, to manifest his religion or belief, in worship, teaching, practice and observance. Freedom to manifest one's religion or beliefs shall be subject only to such limitations as are prescribed by law and are necessary in a democratic society in the interests of public safety, for the protection of public order, health or morals, or for the protection of the rights and freedoms of others.
- Article 14 states that the enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as sex, race, color, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.

¹ This report is available here: <http://website-pace.net/documents/10643/110596/ajdoc0720022014press.pdf/42ae8104-ad82-4097-b3a2-5ceb19a14769>.

- Protocol 1, Article 2 states that no person shall be denied the right to education. In the exercise of any functions which it assumes in relation to education and to teaching, the State shall respect the right of parents to ensure such education and teaching in conformity with their own religious and philosophical convictions.

Second, when evaluated within the framework of the Convention as the cornerstone of your activities, and the need to secure these human rights and fundamental freedoms for everyone within your jurisdiction, without discrimination on any ground, the report with draft resolution and draft recommendation raises a number of serious problems.

The draft resolution's recommended measures, if adopted, will result in rising government restrictions and social hostilities against minority religious organizations and communities, and pose serious threats to the human rights and fundamental freedoms of millions of members of minority faiths throughout the Council of Europe. Specifically:

- The use of the term “sect” will establish a restrictive classification system that will stigmatize and marginalize targeted minority faiths. This runs counter to statements by international human rights bodies and two former UN Special Rapporteurs on Freedom of Religion and Belief that the term is a derogatory designation inconsistent with policies that foster religious freedom, pluralism and tolerance.
- The implementation of “extensive awareness-raising measures” for certain officials, including judges, on the issue of “sects” will ignore a UN Human Rights Committee finding that such “awareness sessions” violate human rights standards and a recommendation that “sensitizing sessions for judges against the practices of certain designated sects” cease.²
- The financing provided to “traditional” churches (defined as Catholic, Orthodox, and Protestant) for “preventing and combating excesses of sects” will clearly violate the obligation of member states to remain neutral and impartial in religious matters, as required by the Convention and numerous other international human rights instruments.
- The establishment of national and regional information centers or “sect observatories” without requiring such centers to be staffed by independent, neutral and objective experts with appropriate academic qualifications, and to provide targeted religious groups with access to their files and the opportunity to respond and correct inaccuracies, will result in a biased approach toward minority faiths. This is clearly based on the much-criticized MIVILUDES (“Mission inter-ministérielle de vigilance et de lutte contre les dérives sectaires”) in France.
- The series of measures in the area of education and children will jeopardize the rights of parents to educate their children in conformity with their own religious beliefs, as protected under Article 9 and Protocol 1, Article 2, of the Convention; Article 18 of the International Covenant on Civil and Political Rights; and Article 14 of the Convention on the Rights of the Child.

² UN Human Rights Committee Concluding Observations: Germany (18/11/96), (CCPR/C/79/Add.73).

- The close State monitoring of “home schooling and private schools which may be under the sway of these movements” will make home schools and private religious schools subject to intrusive and disruptive state investigations that improperly focus on religious association.
- The call for all 47 member states to “adopt or strengthen, if necessary, legislative provisions punishing the abuse of psychological and/or physical weakness” is clearly based on the much-criticized About-Picard law in France. This runs counter to previous declarations and resolutions of PACE. On April 26, 2011, 50 members of PACE signed Declaration 321, expressing their concern about the About-Picard law. And on November 18, 2002, PACE adopted Resolution 1309 on the About-Picard law, calling on the French government to “reconsider the law” and its conformance with Article 9 of the Convention.

If PACE was concerned enough to adopt Resolution 1309 and call on the French government to reconsider About-Picard, it should likewise vote to send this Salles report back to the Committee of Legal Affairs and Human Rights for reconsideration.

Finally, the report uses sweeping generalizations and relies on statements, such as the “Assembly notes that the phenomenon of excesses of sects affecting minors is ever more present in Europe,” that are unsupported by any evidence. It relies on one-sided information from biased sources that constitute a blueprint for discrimination against parents and their children associated with religious minority faiths. And it acknowledges that a “number of studies have demonstrated that it is impossible to reach a consensus on the definition of ‘sect’”, and that “it is not possible to give a legal definition of religion, any more than of sects.” This makes it impossible to adopt the report’s draft resolution and draft recommendation, for these measures cannot possibly be implemented without improperly discriminating against and violating the human rights and fundamental rights of certain legitimate religious groups and their individual members.

We are a truly multi-faith group of organizations and individuals, representing a high degree of diversity. We agree on very little theologically, but we all agree on the importance of religious freedom for all faiths and none. If PACE adopts this report as drafted, it will have taken a major step backwards in terms of religious tolerance and the rights of religious minorities in the 47 countries in the Council of Europe. The report should be sent back to the Committee on Legal Affairs and Human Rights for further investigation and analysis.

Respectfully,

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HINDU AMERICAN FOUNDATION (UNITED STATES)

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HOME SCHOOL LEGAL DEFENSE ASSOCIATION (UNITED STATES)

HUMAN RIGHTS LAW FOUNDATION (UNITED STATES)

INSTITUTE FOR GILGIT BALTISTAN STUDIES (UNITED STATES)

INSTITUTE ON RELIGION AND PUBLIC POLICY (UNITED STATES)

INTERNATIONAL COALITION FOR RELIGIOUS FREEDOM (UNITED STATES)

INTERNATIONAL JOURNAL FOR RELIGIOUS FREEDOM (UNITED STATES)

JUBILEE CAMPAIGN USA (UNITED STATES)

LAW AND LIBERTY TRUST (UNITED STATES)

OMNIUM DES LIBERTES (FRANCE)

PEACE AND COOPERATION FOUNDATION (ECOSOC) (SPAIN)

RUSSIAN MINISTRIES (UNITED STATES)

RUSSIAN ORTHODOX AUTONOMOUS CHURCH OF AMERICA (UNITED STATES)

SECULAR COALITION FOR AMERICA (UNITED STATES)

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CC:

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Mr. Wojciech Sawicki, Secretary General of PACE
Mr. Markus Adelsbach, Secretary of the Bureau of PACE